

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION AT DAYTON**

**ROBERT S. SMITH, JR.,**

**Case No. C-3:09-cv-097**

**Petitioner,**

**Judge Thomas M. Rose  
Magistrate Judge Sharon L. Ovington**

**-v-**

**WARDEN, Chillicothe Correctional  
Institution<sup>1</sup>**

**Respondent.**

---

**ENTRY AND ORDER OVERRULING SMITH'S OBJECTIONS (Doc. #11)  
TO THE MAGISTRATE JUDGE'S REPORT AND  
RECOMMENDATIONS (Doc. #9); ADOPTING THE MAGISTRATE  
JUDGE'S REPORT AND RECOMMENDATIONS (Doc. #9) IN ITS  
ENTIRETY; DENYING ANY REQUESTED CERTIFICATE OF  
APPEALABILITY; AND TERMINATING THIS CASE**

---

This matter comes before the Court pursuant to pro se Petitioner Robert S. Smith, Jr.'s ("Smith's") Objections (doc. #11) to Magistrate Judge Sharon L. Ovington's Report and Recommendations (doc. #9). The Report and Recommendations recommends that Smith's Petition for a Writ of Habeas Corpus be denied and that a Certificate of Appealability not issue.

The time has run and the Warden has not responded to Smith's Objections. This matter is, therefore, ripe for decision.

As required by 28 U.S.C. §636(b) and Federal Rules of Civil Procedure Rule 72(b), the District Judge has made a de novo review of the record in this case. Upon said review, the Court finds that Smith's Objections to the Magistrate Judge's Report and Recommendations are not

---

<sup>1</sup>As set forth in the Report and Recommendations, Smith's present incarceration in the Southern Ohio Correctional Facility means that SOCF Warden Donald Morgan is the proper Respondent. However, the Case Caption remains the same to maintain docketing continuity.

well-taken, and they are hereby OVERRULED. The Magistrate Judge's Report and Recommendations is adopted in its entirety.

Smith's Petition is dismissed because none of the three (3) grounds for relief that he has presented have merit and because his Second Ground for Relief is procedurally barred. Further, Smith is denied any requested certificate of appealability. Finally, The captioned cause is hereby ordered terminated upon the docket records of the United States District Court for the Southern District of Ohio, Western Division, at Dayton.

**DONE** and **ORDERED** in Dayton, Ohio, this Sixth Day of February, 2012.

**s/Thomas M. Rose**

---

THOMAS M. ROSE  
UNITED STATES DISTRICT JUDGE

Copies furnished to:

Counsel of Record  
Robert S. Smith, Jr. at his last address of record